

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-344-W/S - ORDER NO. 94-325 *lc*
APRIL 11, 1994

IN RE: Application of Carolina Water Service,) ORDER
 Inc. Requesting Commission Approval of) APPROVING
 Transfer of Water System in Black Horse) TRANSFER
 Run, Lancaster County to Lancaster County) OF WATER
 Water and Sewer District.) SYSTEM

This matter is before the Public Service Commission of South Carolina (the Commission) on Carolina Water Service, Inc.'s (CWS' or the Company's) June 2, 1993 Application for approval of the transfer of its water system in Black Horse Run Subdivision, Lancaster County, to Lancaster County Water and Sewer District (the District).

Pursuant to the June 23, 1993, instructions of the Executive Director, CWS was directed to publish in newspapers of general circulation and provide each customer with a prepared Notice of Filing. This Notice of Filing advised persons of the proposed transfer and of the appropriate procedure to intervene as a party in the proceeding. No Petitions to Intervene were filed.

Thereafter, the Commission was informed that CWS sold the Black Horse Run water system to the District on April 13, 1993. On September 21, 1993, the Commission issued a Rule to Show Cause against CWS requiring the Company to show why the transfer of the water system should not be voided. In addition, the Commission again required the Company to publish a Notice of Filing. Order

No. 93-880 (September 21, 1993).

On March 9, 1994, the Commission convened a hearing to address the requested transfer and the Rule to Show Cause against CWS. The Honorable Henry G. Yonce, Chairman, presided. Richard Whitt, Esquire, represented CWS. Gayle B. Nichols, Staff Counsel, represented the Commission Staff.

After thorough review of the applicable law and the testimony of record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. CWS is a public utility within the meaning of S.C. Code Ann. §58-5-10(3) (1976) and is, therefore, subject to the rules and regulations of this Commission. S.C. Code Ann. §58-5-210 (1976).

2. In an opening statement, Mr. Whitt admitted that CWS should have received Commission approval prior to transferring the Black House Run water system to the District. Mr. Whitt apologized to the Commission on behalf of CWS.

3. Martin Lashua, Regional Operations Manager for CWS, testified on behalf of the Company. Mr. Lashua testified that the District contacted CWS about the possibility of transferring the Black Horse Run Subdivision system. Mr. Lashua testified that CWS consummated the sale of this water system on April 13, 1993, and filed its Application for approval of the transfer with this Commission on May 28, 1993.

4. The Company's Application indicates that the Black Horse Run system services 144 water customers. The Application further indicates that CWS sold the system to the District for \$125,000.

5. According to the March 24, 1994, letter from Gerald E. White, Manager of the District,¹ residents of the Black Horse Run Subdivision petitioned the District to provide water service to the subdivision. The District indicates it can "easily provide adequate service to these residents for years to come."

CONCLUSIONS OF LAW

1. 26 S.C. Regs 103-704 (1976) prohibits a public utility which provides water service from selling any portion of its system before obtaining a certificate from the Commission that the sale is in the public interest. 26 S.C. Regs 103-743 (Supp. 1993) prohibits a water utility from executing a contract with any local government which would impact the utility's ability to provide water service without first obtaining the approval of the Commission.

2. CWS admits that it did in fact transfer the Black Horse Run water system to the District without first obtaining this Commission's approval in violation of the Commission's Rules and Regulations.

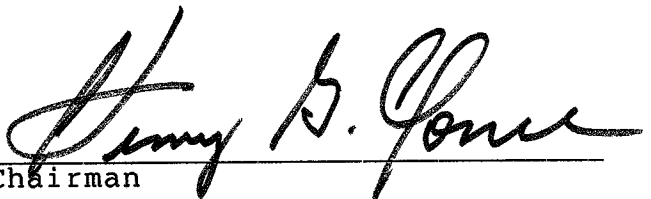
3. The Commission admonishes CWS that flagrant disregard of its Rules and Regulations will not be tolerated and that the Commission treats the disregard of its Rules and Regulations by regulated utilities seriously.

4. Nonetheless, the Commission concludes that the transfer of the Black Horse Run water system to the District is in the

1. Hearing Exhibit 1.

public interest. Therefore, for this reason, the Commission hereby approves the transfer of CWS' Black Horse Run water system to the District.

IT IS SO ORDERED.


Chairman

ATTEST:


Executive Director

(SEAL)